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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,072	11/16/2000	Michael J. Rieschl	RA 5323 (33012/295/101)	5429
27516	7590	07/08/2005	EXAMINER	
UNISYS CORPORATION			VU, NGOC K	
MS 4773			ART UNIT	
PO BOX 64942			PAPER NUMBER	
ST. PAUL, MN 55164-0942			2611	

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/714,072

Applicant(s)

RIESCHL ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 and 21-25 is/are allowed.
- 6) ☒ Claim(s) 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/12/2005 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl (US 5,898,456 A) in view of Weaver et al. (US 6,119,154 A).

Regarding claim 16, Wahl discloses a method of selecting one of a plurality of video servers for streaming a video program to a user comprising:

receiving a message from said user requesting the video program at a multi-media application server (i.e., central server SM via server SL1- see col. 4, lines 2-11); and

selecting one of video servers SL1-SLN and SM to provide the requested video program to user from memory (see col. 4, lines 2-8 and 16-20).

Wahl does not explicitly disclose spooling the video program into a temporary memory by multi-media application server. However, Weaver shows that stream server 118 commands video pump 120 to store a requested video program from disks 114 into a buffer 144. Wahl

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further teaches that the requested video program is then transmitted from buffer 144 to user 122 via network 150 (see col. 15, lines 51-67; col. 14, lines 12-20 and 30-32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wahl by spooling the requested video program into buffer 144 by server 118 as taught by Weaver in order to efficiently delivery data with a minimum latency.

Regarding claim 17, Wahl discloses selecting one of the servers SL1...SLN or SM based upon the that particular server having the requested movie (col. 4, lines 2-8 and 16-20).

Regarding claim 18, Wahl discloses one of the servers SL1...SLN or SM based upon the that particular server having free storage. For example, the local server SL1 is unable to provide a movie if the number of copies of one of the frequently requested movies A1...A10 is insufficient in the memory of the local server SL1 to comply with the requests for this movie. The requests for this movie is passed on to the central server SM, which complies with them. That is the central server SM having sufficient free storage to store the movie (see col. 3, lines 58-64).

Regarding claim 19, Wahl discloses replacing a previous movie from one of the servers with the requested movie. For example, movie A10 was deleted from the memory SPL1 while the movie B2 was copied from the central server SM to the local server SL1 (see col. 6, lines 33-36).

Regarding claim 20, Wahl discloses that movie A10 was deleted from the memory SPL1 while the movie B2 was copied from the central server SM to the local server SL1. However, it is also possible to leave the movie A10 in the memory SPL1, if the capacity of the memory SPL1 is large enough (see col. 6, lines 33-38). Wahl does not explicitly disclose inhibiting unloading movie A10 in the memory if the performance utilization of the movie A10 is greater than the performance utilization of movie B2. It is noted that it is obvious to keep movie A10 in the memory if this movie is more frequently requested by users than movie B2 in order to reduce

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time re-loading this movie from the central server SM to local server SL1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Wahl by keeping the previously loaded movie if the performance utilization of the previously loaded movie is greater than the performance utilization of the requested movie in order to reduce time re-loading the previously loaded movie from the central server SM to local server SL1.

#### ***Allowable Subject Matter***

4. Claims 1-15 and 21-25 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or fairly suggest the limitations of "a multimedia application server including a dedicated hardware and software subsystem responsively couple to said temporary memory which receives said request from said user, spools said video data into said temporary memory, and selects a particular one of said plurality of video servers to stream said video data from said temporary memory" as recited in claims 1, 6 and 21; "plurality of streaming means responsive coupled to said storing means for streaming said video program from said storing means to said receiving means; and directing means responsively coupled to said receiving means and said plurality of streaming means for directing one of said plurality of streaming means to stream said video program to said user in response to said request" as recited in claim 11.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu  
Primary Examiner  
Art Unit 2611

July 5, 2005